

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 402 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

PRAGNABEN WD/O YOGESHBHAI SHANTIBHAI PATEL

Versus

BHAGVANBHAI TAPUBHAI BORIYA

Appearance:

1. Misc.Civil Application No. 402 of 2003
MS ABHA MAKWANA FOR
MR RAMNANDAN SINGH for Petitioner No. 1-4
RULE SERVED for Respondent No. 1-2
MR SANDIP C SHAH for Respondent No. 3
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CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 23/06/2003

ORAL JUDGEMENT

1. Pragnaaben wd/o Yogeshbhai Shanbtibhai and others have have filed this application for transferring Motor Accident Claim Petition No. 61 of 1994 from Motor Accident Claims Tribunal, Morbi to Motor Accident Claims Tribunal, at Nadiad.

2. It is stated that M.A.C.P. No. 61 of 1994 arises out of an accident which had taken place on 2-9-93 on the road leading from Morbi to Rajkot. At material point of time the petitioners who were co-passengers in Maruti Car No. GJ-7-U 363 as such the said Car was driven in slow speed, at that time truck No. GJ-12-T 7745 came driven by its driver respondent no. 1, which was coming in full speed and was driven in zigzag manner, had hit the said Maruti car resulting into death of Yogeshbhai and caused injuries to Natvarlal Mistri. It is submitted by the learned advocate Ms. Abha Makwana for the petitioners that when the original claim was preferred, the petitioners were not aware about the amendment came to be made on 14-11-1994 in the Motor Vehicles Act, 1988 under which it is left open for the claimant/s to choose the Tribunal. She has also submitted that the respondent no. 1 is residing at Bhavnagar, whereas the respondent no. 2 is residing in District Katchh. It is also submitted that for both the respondents no. 1 and 2 it is not the case that they are appearing in a Tribunal, where any inconvenience could be caused to them. Admittedly, the respondents no. 4 and 5 are residing in Kheda District and hence transfer of aforesaid claim petition would be in their interest. Not only that, the respondent no.3 has its branch office at Nadiad and the respondent no. 6 is having its office at Vallabh Vidyanagar which is nearer to M.A.C. Tribunal at Nadiad. Therefore, there would not be any inconvenience or economic hardship to them if aforesaid claim petition is transferred from M.A.C. Tribunal, Morbi to M.A.C. Tribunal at Nadiad.

5. In view of the amendment in the Motor Accident Act, 1988 and the provisions of Section 24 of the Civil Procedure Code and in the facts and circumstances of this case, Motor Accident Claim Petition No. 61 of 1994 pending before the Motor Accident Claims Tribunal at Morbi is hereby ordered to be transferred to Motor Accident Claims Tribunal, Nadiad for hearing and final disposal.

7. As this claim petition is of 1994, M.A.C. Tribunal, Nadiad is requested to expedite hearing of

M.A.C. P. No. 61 of 1994 and shall dispose of the same as early as possible preferably by 31-12-2003. Rule is made absolute, with no order as to costs. D.S. is permitted.

(K.M. Mehta, J.)

/JVSatwara/